MONTANA LEGISLATIVE HISTORY

Chapter 613 1983

Bill H 191 S _____ Original bill & history ✓ C

H. Committee on Judiciary

Hearing Date(s) 1/24 ✓ C

_____ ___ C

_____ ___ C

_____ ___ C

Date Out _____ ___ C

S. Committee on Judiciary

Hearing Date(s) 3/23 ✓ C

_____ ___ C

_____ ___ C

_____ ___ C

Did this bill originate in an interim committee? ___ Yes ✓ No

Committee _____ Report _____

HOUSE BILL NO. 191

INTRODUCED BY RAMIREZ, BERGENE,
FABREGA, YARDLEY

IN THE HOUSE

January 13, 1983	Introduced and referred to Committee on Judiciary.
January 25, 1983	Committee recommend bill do pass. Report adopted.
January 26, 1983	Bill printed and placed on members' desks.
January 27, 1983	Second reading, pass consideration until 28th Legislative Day.
February 3, 1983	Second reading, do pass.
February 4, 1983	Considered correctly engrossed.
February 5, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 7, 1983	Introduced and referred to Committee on Judiciary.
March 25, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 26, 1983	Second reading, concurred in.
March 28, 1983	Third reading, concurred in. Ayes, 47; Noes, 0.

IN THE HOUSE

March 28, 1983	Returned to House with amendments.
April 1, 1983	Second reading, pass consideration.
April 4, 1983	Second reading, amendments not concurred in.
April 4, 1983	On motion, Conference Committee requested and appointed.
April 13, 1983	Conference Committee dissolved.
	On motion, Free Conference Committee requested and appointed.
	Free Conference Committee reported.
April 14, 1983	Second reading, Free Conference Committee report adopted.
April 15, 1983	Third reading, Free Conference Committee report adopted.
April 18, 1983	Free Conference Committee report adopted by Senate.
	Sent to enrolling.
	Reported correctly enrolled.

ADOPTION OF A PLAN CONSOLIDATING OR TRANSFERRING SERVICES BETWEEN OR AMONG LOCAL GOVERNMENT UNITS; AND PROVIDING PROCEDURES FOR THE ELECTORS TO TERMINATE A SERVICE CONSOLIDATION OR TRANSFER PLAN; AMENDING SECTIONS ....

INTRODUCED: 01/12/83
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 01/12/83
HEARING: 1/20/83
REPORT: 02/08/83, DO NOT PASS, AS AMENDED
OBJECTION: 2/8/83
INDEFINITELY POSTPONED: 2/10/83
BILL KILLED

HB 190 -- ASAY, ELLISON, SWIFT, ET AL. -- AUTHORIZING PURCHASERS OF GASOLINE IN LARGE VOLUMES THE OPTION OF PURCHASING GASOLINE ON A TEMPERATURE CORRECTED BASIS; AMENDING SECTION ...; AND PROVIDING AN EFFECTIVE DATE.

INTRODUCED: 01/12/83
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 01/12/83
HEARING: 1/19/83
REPORT: 01/19/83, DO PASS, AS AMENDED
2ND READING: 01/21/83, DO PASS AYES: 93; NAYS: 2
3RD READING: 01/24/83, DO PASS AYES: 98; NAYS: 2

TRANSMITTED TO SENATE: 1/24/83
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 01/25/83
HEARING: 2/4/83
REPORT: 02/11/83, BE CONCURRED IN, AS AMENDED
2ND READING: 02/15/83 AYES: 49; NAYS: 0
3RD READING: 02/18/83 AYES: 48; NAYS: 0

RETURNED TO HOUSE WITH AMENDMENTS 2/18/83
2ND READING: 03/11/83, BE CONCURRED IN AYES: 97; NAYS: 0
3RD READING: 03/12/83, BE CONCURRED IN AYES: 92; NAYS: 0

TRANSMITTED TO GOVERNOR: 03/18/83
SIGNED: 03/22/83, CHAPTER 166

HB 191 -- RAMIREZ, BERGENE, FABREGA, ET AL. -- TO PROVIDE THAT THE DIVISION OF PROPERTY IN A PROCEEDING TO TERMINATE A MARRIAGE IS CONSIDERED TO BE A DIVISION OF COMMON OWNERSHIP INTERESTS OF THE PARTIES; AMENDING SECTION ....

INTRODUCED: 01/13/83
REFERRED TO COMMITTEE ON JUDICIARY: 01/13/83
HEARING: 1/24/83
REPORT: 01/25/83, DO PASS
2ND READING: 02/03/83, DO PASS AYES: 94; NAYS: 0
3RD READING: 02/05/83, DO PASS AYES: 91; NAYS: 0

TRANSMITTED TO SENATE: 2/5/83
REFERRED TO COMMITTEE ON JUDICIARY: 02/07/83
HEARING: 3/23/83
REPORT: 03/25/83, BE CONCURRED IN, AS AMENDED
2ND READING: 03/26/83 AYES: 48; NAYS: 0
3RD READING: 03/28/83 AYES: 47; NAYS: 0

RETURNED TO HOUSE WITH AMENDMENTS: 03/28/83
2ND READING: 04/04/83, BE NOT CONCURRED IN AYES: 86; NAYS: 0

CONFERENCE COMMITTEE APPOINTED: 04/04/83
CONFERENCE COMMITTEE DISSOLVED: 4/13/83

FREE CONFERENCE COMMITTEE APPOINTED: 4/13/83

FREE CONFERENCE COMMITTEE REPORT: 4/13/83
HOUSE
2ND READING: 04/14/83, ADOPTED AYES: 89; NAYS: 0
3RD READING: 04/15/83, ADOPTED AYES: 96; NAYS: 0

SENATE
2ND READING: 04/16/83, BE ADOPTED AYES: 48; NAYS: 0
3RD READING: 04/18/83, BE ADOPTED AYES: 50; NAYS: 0

TRANSMITTED TO GOVERNOR: 04/21/83
SIGNED: 4/25/83, CHAPTER 613

HB 192 -- SCHULTZ, KEYSER, WINSLOW, ET AL. -- TO PROHIBIT A SCHOOL DISTRICT FROM EMPLOYING A TEACHER WHO IS UNDER CONTRACT TO TEACH IN ANOTHER MONTANA SCHOOL DISTRICT; AMENDING SECTION ....

INTRODUCED: 01/13/83
REFERRED TO COMMITTEE ON EDUCATION & CULTURAL RESOURCES: 01/13/83
HEARING: 1/24/83
REPORT: 01/24/83, DO PASS
2ND READING: 1/26/83, DO PASS AYES: 85; NAYS: 11
3RD READING: 1/28/83, DO PASS AYES: 78; NAYS: 13

TRANSMITTED TO SENATE: 1/28/83
REFERRED TO COMMITTEE ON EDUCATION & CULTURAL RESOURCES: 01/29/83
HEARING: 3/2/83
REPORT: 03/17/83, BE NOT CONCURRED IN. REPORT ADOPTED.
BILL KILLED

HB 193 -- PISTORIA, MANNING, MCCORMICK -- DELINEATING SPECIFIC PROFESSIONS EXCLUDED FROM MUNICIPAL CONTRACT RESTRICTIONS; AMENDING SECTION ...; AND PROVIDING AN EFFECTIVE DATE.

INTRODUCED: 01/13/83
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 01/13/83
HEARING: 1/20/83
REPORT: 1/26/83, DO PASS, AS AMENDED
2ND READING: 01/28/83, DO PASS AYES: 68; NAYS: 23
3RD READING: 01/31/83, DO PASS AYES: 59; NAYS: 37

TRANSMITTED TO SENATE: 1/31/83
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 02/01/83
HEARING: 3/17/83
REPORT: 03/19/83, BE CONCURRED IN
2ND READING: 03/22/83 AYES: 49; NAYS: 0
ON MOTION, 3/23/83, THAT THE BILL BE TAKEN FROM 3RD READING AND REREFERRED TO 2ND READING. MOTION PASSED UNANIMOUSLY.
ON MOTION, 3/24/83, THAT PASS CONSIDERATION OF THE BILL BE GIVEN ON 2ND READING THIS DATE. MOTION PASSED UNANIMOUSLY.
ON MOTION, 3/24/83, THAT THE BILL BE REREFERRED TO THE COMMITTEE ON BUSINESS AND INDUSTRY. MOTION PASSED UNANIMOUSLY.
REPORT: 03/25/83, BE CONCURRED IN

LC 0422/01

House BILL NO. 191

INTRODUCED BY Ramirez, Bergene, Fritz, Gradley

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT THE DIVISION OF PROPERTY IN A PROCEEDING TO TERMINATE A MARRIAGE IS CONSIDERED TO BE A DIVISION OF COMMON OWNERSHIP INTERESTS OF THE PARTIES; AMENDING SECTION 40-4-202, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 40-4-202, MCA, is amended to read:

"40-4-202. ~~Disposition~~ Division of property. (1) In a proceeding for dissolution of a marriage, legal separation, or ~~disposition~~ division of property following a decree of dissolution of marriage or legal separation by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to ~~dispose of~~ divide the property, the court, without regard to marital misconduct, shall, and in a proceeding for legal separation may, finally equitably apportion between the parties the property and assets belonging to either or both, however and whenever acquired and whether the title thereto is in the name of the husband or wife or both. In making apportionment, the court shall consider the duration of the marriage and prior marriage of either party; antenuptial agreement of the parties; the age, [illegible] amount and sources of income, vocational skills, employability, estate, liabilities, and needs of each of the parties; custodial provisions; whether the apportionment is in lieu of or in addition to maintenance; and the opportunity of each for future acquisition of capital assets and income. The court shall also consider the contribution or dissipation of value of the respective estates and the contribution of a spouse as a homemaker or to the family unit. In ~~disposing of~~ dividing property acquired prior to the marriage; property acquired by gift, bequest, devise, or descent; property acquired in exchange for property acquired before the marriage or in exchange for property acquired by gift, bequest, devise, or descent; the increased value of property acquired prior to marriage; and property acquired by a spouse after a decree of legal separation, the court shall consider those contributions of the other spouse to the marriage, including:

(a) the nonmonetary contribution of a homemaker;

(b) the extent to which such contributions have facilitated the maintenance of this property; and

(c) whether or not the property ~~disposition~~ division serves as an alternative to maintenance arrangements.

(2) In a proceeding, the court may protect and promote the best interests of the children by setting aside a portion of the jointly and separately held estates of the

parties in a separate fund or trust for the support, maintenance, education, and general welfare of any minor, dependent, or incompetent children of the parties.

(3) Each spouse is considered to have a common ownership in marital property that vests not later than the time of the entry of the decree of dissolution or declaration of invalidity. The extent of the vested interest must be determined and made final by the court pursuant to this section.

(4) The division and apportionment of marital property caused by or incident to a decree of dissolution, a decree of legal separation, or a declaration of invalidity is not a sale, exchange, transfer, or disposition of or dealing in property but is a division of the common ownership of the parties for purposes of:

(a) the property laws of this state;

(b) the income tax laws of this state; and

(c) the federal income tax laws."

NEW SECTION. Section 2. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

-End-

STATE OF MONTANA

REQUEST NO. 267-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 27, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 191 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 191 provides that the division of property in a proceeding to terminate a marriage is considered to be a division of common ownership interests of the parties and amends Section 40-4-202, MCA.

FISCAL IMPACT:

No fiscal impact expected.

stop

FISCAL NOTE 10:B/1

David M. Lewis

BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 2-2-83

MINUTES OF THE JUDICIARY COMMITTEE
January 24, 1983

The meeting of the House Judiciary Committee was called to order by Chairman Dave Brown at 8:00 a.m. in Room 224A of the Capitol. All members were present. Brenda Desmond, Legislative Council, was also present.

HOUSE BILL 246

REP. MUELLER, sponsor, stated House Bill 246 would provide for staggered terms for members of the Board of Pardons. The sponsor noted that every member of the subcommittee of the Task Force on Corrections signed the bill. The Task Force felt there is a need for continuity on the Board. A number of people on the Board are familiar with the law and have the same ideas. TOM KEEGAN was recently appointed to the Board. His term will expire in 1985.

Under House Bill 246, the terms of the members would be staggered. Terms for the various members would expire in 1986, 1987, 1988, and 1989.

There were no additional proponents.

MONA JAMISON, Governor's Office, was opposed to the bill. Originally, the Governor's Office had approved this bill. When it was in final form, however, the Office felt there were some points that should be raised. The Governor has introduced a bill that would allow the Governor to make appointments to the Board, upon his assumption of office, and the appointees would assume office immediately rather than at the end of the legislative session. The Board of Pardons is a quasi-judicial board under Section 21-5-124. Appointees can take office upon appointment and qualification. The qualification of an appointeee is his confirmation by the Legislature. The incumbents hold the position until the appointee is confirmed.

JAMISON stated the Governor's bill will be heard in the State Administration Committee. This bill states that if an appointment expires January 3 and a new Governor appoints a new person to fill that position, that person can take office right away. This would benefit any new Governor regardless of party. House Bill 246, however, runs in conflict with the Governor's bill. Under House Bill 246, in 1985 three people whose terms expire each have a staggered term. It will take three years for the new Governor to have his people on the Board.

stated the Governor's office did not have amendments towards the bill; rather, they are opposed to its passage as they prefer the language in House Bill 215.

The hearing on House Bill 246 closed.

HOUSE BILL 191

REP. RAMIREZ, sponsor, stated House Bill 191 provides that the division of property in a proceeding for dissolution of a marriage is considered to be a division of common ownership interests of the parties.

JIM ST. CLAIRE, was a proponent of the bill. The purpose of the bill is to put Montana on a par with other community property states in the tax area. In community property states the tax consequences of division of property in a divorce are minimal. In Montana, however, there are tax ramifications. In 1952, for example, mom and dad get married. Mom's parents sell them a farm worth much more than $10,000 for $10,000 as a wedding present. In 1982, dad divorces mom and remarries. The court decrees mom has to sell her interest in the farm. The farm is now worth $200,000. As a result of that decree, mom receives $100,000 from dad, and dad gets the farm. Mom must pay capital gains tax. If we were a community property state, she would not be taxed on the division of property. This bill states at the time of decree both mom and dad have equal interest in the property regardless of how the title was acquired. Four other states have laws similar to this.

STACY FLAHERTY, Women's Lobbyist Fund, was in favor of the bill. FLAHERTY read her testimony from EXHIBIT A.

There were no further proponents.

There were no opponents.

In closing REP. RAMIREZ stated it is unfair for the people of Montana to have to be subjected to tax on a sale that is ordered by the court in a dissolution proceeding. In community property states, division of property in a divorce is not a taxable event. Four non-community property states have tried to deal with this situation by means of laws similar to this bill.

REP. HANNAH asked if the bill passes and the same situation as in the example arises, would there be an interference with tax revenues. RAMIREZ replied the state and the federal government will still obtain their share of the money. It is a question of when the taxable event occurs. At the death of the owner or sale of property by the owner the state and federal government will obtain taxes on the gain. Under this bill the division of property would not be considered a sale for tax purposes.

REP. HANNAH asked if in the example dad remarries and sells the farm ten years from now; who would pay the capital gains tax. It was replied dad would. The settlement of the original divorce decree would then reduce the amount of the gain though.

The hearing on House Bill 191 closed.

HOUSE BILL 210

REP. PISTORIA, sponsor, stated House Bill 210 would require presentation of a valid insurance card for registration of a motor vehicle and suspension of driver's license for certain offenses. In the 1979 session, this bill was made into law. In 1981, the legislature changed the law so that now in order to register a vehicle it is necessary only to swear that you have insurance, it is not necessary to prove it. REP. PISTORIA gave the committee EXHIBIT B, a copy of the current Montana Owner's Certificate of Registration and Tax Receipt. He noted applicants are not always telling the truth when they certify under oath that the vehicle is insured. This bill would require showing a valid insurance card to the County Treasurer before being permitted to register a vehicle.

The sponsor stated the bill is patterned after current Idaho law.

The penalty in this bill for not having valid insurance is the suspension for one year of the driver's license or nonresident operating privileges of the person convicted or until such person gives and thereafter maintains with the division for one year proof of financial responsibility.

JOHN THOMPSON was in favor of the bill. When Montana originally had a mandatory insurance law, it created some conflict with the County Treasurers. Some of the treasurers would accept just about anything as proof of insurance. THOMPSON feels the bill will simplify the matter for the treasurers.

MINUTES OF THE JUDICIARY COMMITTEE
January 25, 1983

The meeting of the House Judiciary Committee was called to order by Chairman Dave Brown at 8:00 a.m. in Room 224A of the Capitol. All members were present. Brenda Desmond, Legislative Council, was also present.

HOUSE BILL 278

REP. KEMMIS, sponsor, stated this bill will prohibit the issuance of a restricted probationary driver's license to any person whose license has been suspended for conviction of driving under the influence of alcohol or drugs. The sponsor was concerned that the committee consider the general problem of drunk driving. Action has been taken by a number of states. Montana needs a clear policy that every citizen knows. The first deterrent Montana has embarked on in this area is mandatory jail time. People realize that if they are caught driving while under the influence their license will be taken away for awhile. That is a better deterrent than spending time in jail. While there is a provision for suspension, there is also a problem because of the issuance of probationary licenses. If the citizen knows he will be able to obtain a probationary license the deterrence effect will be lost. We must tell people if they drive while intoxicated, they will lose their license. If the citizen has difficulty getting to work because of this, that is his problem and not ours. Many people want to work, but we will not make it easy for them to get to work just because they were convicted of DUI and need a license.

JOHN HOLTER, Montanans Against Drunk Drivers (MADD), was in support of the bill. According to the staff psychologist at the state prison, the strickest punishment the first time an offense is done is the most effective. It would make a person think twice if he knew he could not drive for six months if caught driving while under the influence.

MICKEY NELSON, Coroners Office, stated he was a proponent of anything that would help eliminate drunk driving.

MARY DOUBELS, MADD, was also in support of the bill. She felt that a publicity campaign should be done statewide detailing penalties for driving drunk. Driving is a privilege with responsibilities. EXHIBIT A.

MARC RACICOT, County Attorneys, was in favor of the bill. He did have a few concerns, however. There are 4,000 DUI's (driving while intoxicated) charges each year. Approximately 75% of those people receive probationary licenses. These are

STEVE KING stated the treatment program at Shodair is based on the family teaching aspect. Parents lose sight on how to control kids. Parents do all they can but kids still do what they choose anyway. KING felt it was a poor decision in the 1970's to lower the drinking age.

SHARON FINNEY felt there is more peer pressure on the 19 year old than the 21 year old. At 21 the person can make better decisions without being pressured.

LARRY BREWER asked about the drugs that are in the schools. We keep track of alcohol better than we keep track of drugs. STEVE HILBRY did not agree with that statement. He stated alcohol was his drug choice. Most drug abusers start with alcohol.

REP. ADDY questioned if allowing a child to drink was a form of child abuse. DAVIS agreed that this was abuse. She stated, though, that many parents cannot control their kids. Parents are not always the factor. If parents provide the alcohol to the kids that would definitely be abuse.

The hearing on House Bills 194 and 195 closed.

The committee then went into executive session.

EXECUTIVE SESSION

HOUSE BILL 191

REP. RAMIREZ moved House Bill 191 DO PASS, seconded by REP. SEIFERT. REP. RAMIREZ felt the bill was a fair proposal, however, a new fiscal note should be included.

REP. JENSEN was in support of the motion.

REP. ADDY asked how the fiscal note would impact the bill. REP. RAMIREZ replied it will make the transactions feasible.

All were in favor of the motion DO PASS.

HOUSE BILL 210

REP. HANNAH moved DO NOT PASS, seconded by REP. JENSEN.

REP. KEYSER spoke against the motion. He did object, however, to lines 1 and 2 on page 2 of the bill. The clerks of the treasurer's office do not like the bill but they do work for

WOMEN'S LOBBYIST FUND

Box 1099
Helena, MT 59624
449-7917

Exhibit A
HB 191
1/24/83

TESTIMONY OF STACY A. FLAHERTY, WOMEN'S LOBBYIST FUND, ON JANUARY 24, 1983, BEFORE THE HOUSE JUDICIARY COMMITTEE REGARDING HOUSE BILL 191.

The Women's Lobbyist Fund, a coalition of women's groups in Montana, endorses House Bill 191.

Under current law, Montana is an equitable distribution state for purposes of divorce proceedings. A Court equitably apportions between the parties involved the property and assets belonging to either or both parties. The law also recognizes the non-wage earning contributions of a homemaker and instructs the Court to consider the health, age, occupation, amount and sources of income, employability, etc. of each party. Property transferred in divorce proceedings may be taxable under the current law.

House Bill 191 further strengthens the equitable nature of the existing law by removing the tax consequences resulting from transfers of property in divorce proceedings.

The Women's Lobbyist Fund believes this bill is fair and just to both parties involved in divorce proceedings. We encourage the committee to pass HB 191.

thy A. van Hook, President; Sib Clack, Vice President; Connie Flaherty-Erickson, Treasurer; Celinda C. Lake, Lobbyist; Stacy A. Flaher, Lobbyist

VISITOR'S REGISTER

HOUSE JUDICIARY COMMITTEE

BILL House Bill 191 DATE January 24, 1983

SPONSOR Rep. Ramirez

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Stacy A. Flaherty	Helena	Women's Lobbyist Fund	✓	
[illegible]	[illegible]		X	
Jack Ramirez	Billings	Sponsor	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

FORM CS-23

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 23, 1983

The fiftieth meeting of the Senate Judiciary Committee was called to order by Chairman Jean A. Turnage at 10:05 a.m., on March 23, 1983, in Room 325, State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 540: Representative Vincent, sponsor of the bill, testified that HB540 is a significant piece of legislation which will help Montana law enforcement officers and benefit Montana citizens. Representative Vincent explained that under Montana's present laws, if you are arrested for DUI, you first submit to some type of chemical test to determine the blood-alcohol level. Many times a Defendant will testify in court that even though his blood-alcohol level was over that necessary to constitute DUI, he was still in control of his senses. Representative Vincent informed the committee that in addition to submitting to a chemical test, law enforcement officers often have the suspect walk a straight line, recite the alphabet or touch his finger to his nose, to determine the degree of intoxication. Representative Vincent testified that many persons are acquitted of a DUI charge when they passed the physical tests but failed the chemical test. HB540 would alleviate this and the court would only be allowed to consider the blood-alcohol level as evidence. Representative Vincent believes the chemical test, if applied fairly, should be sufficient evidence for a court to convict a person on DUI. Representative Vincent stated that although HB540 is a complex bill, 28 states have similar laws in effect, with one state using a blood-alcohol level of .018 as the means for considering a person legally intoxicated.

PROPONENTS: Mr. Steven Johnson, Assistant Attorney General, submitted written testimony (see attached Exhibit "A") and testified that the Attorney General supports HB540, because it will increase the number of convictions of DUI's and decrease the amount of time and money involved in obtaining a conviction. Mr. Johnson stated that HB540 will provide for a new offense not presently contained in our current DUI laws. He testified HB540 makes two significant changes to our current law:

1. HB540 provides for a new offense by making it illegal to drive a motor vehicle with a blood-alcohol concentration of .10 or more; and

2. It provides for the admissibility of lab reports showing the blood-alcohol level as evidence in trial.

Senator Mazurek had questions concerning the rebuttable presumptions under Subsection 2 and the conclusive presumptions contained in Section 1. Senator Mazurek felt that perhaps these provisions should be separated into two separate statutes. Senator Mazurek questioned Mr. Johnson as to whether other states had combined the two offenses into one statute. Mr. Johnson agreed that the chemical and behavioral offenses should be separate and distinct.

Senator Crippen questioned why, if the illegal per se offense is a lessor offense, it carries the same penalty.

Senator Crippen questioned Col. Landon as to whe use of "Ways open to the public" and how the language should be changed to reflect places such as jogging trails and playgrounds.

Senator Daniels asked Mr. Johnson if a person could be charged with two counts, one for drunk driving per se and one for the traditional DUI. He was told yes, you could be charged and convicted on both counts. The Committee felt that you should be charged one way or the other to avoid a "double jeopardy" situation.

There being no further questions from the Committee, Representative Vincent closed the hearing by stating that HB540 is an important piece of legislation which provides for conclusive evidence. Representative Vincent stated that no one is as good a driver even with a .05 blood-alcohol level as they are when they are sober.

CONSIDERATION OF HOUSE BILL 191: Representative Ramirez, sponsor of the bill, stated that HB191 provides for a "division" of property as opposed to a "disposition" of property, for the purposes of tax and other laws. Representative Ramirez stated that several other states have modified their divorce laws to reflect this change. Representative Ramirez stated that HB191 contains no significant fiscal impact on the state.

PROPONENTS: Ms. Stacey Flaherty, representing the Women's Lobbyist Fund, submitted written testimony (see attached Exhibit "G") in support of HB191. Ms. Flaherty testified that HB191 will strengthen the current laws of the state and will eliminate negative tax consequences resulting from transfers of property in divorce proceedings.

There being no further proponents and no opponents, the hearing was opened to questions from the Committee.

Senator Turnage asked Representative Ramirez if it would cause any problems if the Committee replaced the word "common" with "vested" on page 3, line 4. Representative Ramirez stated that he had no problem with this suggestion.

END

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 25, 1983

The fifty-second meeting of the Senate Judiciary Committee was called to order by Chairman Jean A. Turnage, at 10:03 a.m., in Room 325, State Capitol, Helena, Montana.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 714: House Bill 714 was referred back to the Senate Judiciary Committee from the Senate Administration Committee with proposed amendments. There being no proponents, opponents, or questions from the Committee, the hearing was closed.

ACTION ON HOUSE BILL 714: Senator Berg moved that the language of the Committee Report from the Senate Administration Committee BE ADOPTED. This motion carried unanimously. Senator Berg then moved that HB714 BE CONCURRED IN AS AMENDED. This motion carried with Senators Crippen and Shaw voting in opposition.

FURTHER CONSIDERATION OF HOUSE BILL 677: Senator Turnage stated that he feels the House will reject his proposed amendments to HB677. Senator Turnage stated that he still opposes the bill, but will do everything possible to see that the amendments stay as he intended them. Senator Turnage then allowed Cathy Campbell, representing the Montana Association of Churches, to review the amendments adopted by the Committee. Senator Berg stated that he did not view HB677 as a "slot machine bill." It is Senator Berg's opinion that the amendments adopted by the Committee will defeat the purpose of the bill. There being no further comments from the Committee, the hearing was closed.

ACTION ON HOUSE BILL 677: Senator Halligan moved that HB677 BE CONCURRED IN AS AMENDED. This motion carried by a roll call vote.

FURTHER CONSIDERATION OF HOUSE BILL 191: Senator Turnage stated that he feels subsection (3) of this bill is dangerous. He also felt the word "common" would tend to lead to an idea of common property.

ACTION ON HOUSE BILL 191: Senator Berg moved that HB191 BE RECONSIDERED. This motion carried unanimously. Senator Daniels moved that the proposed amendments to HB191 BE ADOPTED. This motion carried unanimously. Senator Mazurek moved that HB191 BE CONCURRED IN AS AMENDED. This motion carried unanimously.

FURTHER CONSIDERATION OF HOUSE BILL 628: Senator Mazurek moved to reconsider HB628. This motion carried uanimously. The Committee

(This sheet to be used by those testifying on a

Exhibit "G"
March 23, 1983
HB191

NAME: Stacy Flaherty DATE: 3/23/82

ADDRESS: P.O. Box 1099

PHONE: 449-7917

REPRESENTING WHOM? Women's Lobbyist Fund

APPEARING ON WHICH PROPOSAL: HB191

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? _____

COMMENT: The Women's Lobbyist Fund, a coalition of women's groups in Montana, endorses HB191.

Under current law, Montana is an equitable distribution state for purposes of divorce proceedings. A Court equitably apportions between the parties involved the property and assets belonging to either or both parties. The law also recognizes the non-wage earning contributions of a homemaker and instructs the Court to consider the health, age, occupation, amount and sources of income, employability, etc. of each party. Property transferred in divorce proceedings may be taxable under current law.

HB191 further strengthens the equitable nature of the existing law by removing the tax consequences resulting from transfers of property in divorce proceedings.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

The Women's Lobbyist Fund believes this bill is fair and just to both parties involved in divorce proceedings.

We urge a do pass on HB191.

STATE PUBLISHING CO HELENA MONTANA

April 13, 1983

19

FREE CONFERENCE COMMITTEE
HOUSE BILL 191
(Report No. 1, 11:00 A.M.)

Mr. Speaker:

We, your Free Conference Committee on House Bill 191, met and considered:

House Bill 191, third reading copy (Blue); and
Senate Judiciary Committee amendments of March 25, 1983.

We respectfully recommend as follows:

That the Senate recede from the Senate Judiciary Committee amendments of March 25, 1983;
That House Bill 191 be further amended as specified in Clerical Instruction 2.
That this Free Conference Committee report be adopted.

CLERICAL INSTRUCTIONS FOR REFERENCE COPY (SALMON)

1. Strike Senate Judiciary Committee amendment numbers 1 and 2.

2. Page 3, line 6.
Following: "**vests**"
Strike: "**not later than the time of**"
Insert: "immediately preceding"

FOR THE HOUSE

Kelly Addy
ADDY, CHAIR

Jack Ramirez
RAMIREZ

Carol Farris
FARRIS

FOR THE SENATE

Turnage
TURNAGE, CHAIR

Mike Daniels
DANIELS

James H. Shaw
SHAW